

HOUSE BILL REPORT

HB 1792

As Reported by House Committee On:
Education

Title: An act relating to the use of physical restraint in the common schools.

Brief Description: Defining the parameters of the use of force and physical restraint in the common schools.

Sponsors: Representatives Pettigrew, Santos, Dickerson, Haler, Simpson, Darneille, O'Brien, Murray, Lantz, Chase, Kenney, Kagi, Hasegawa, Moeller and Hudgins.

Brief History:

Committee Activity:

Education: 2/16/05, 2/24/05 [DP].

Brief Summary of Bill

- Permits the use of physical restraint in schools only when there is a threat of imminent, serious, bodily harm.
- Prohibits the use of physical restraint in schools for disciplinary purposes in the absence of a threat of imminent, serious, bodily harm.
- Creates exemptions for the use of restraint by commissioned law enforcement officers, and the restraint authorized or required for special education students or disabled students.
- Requires school building administrators to include all school security personnel in the annual review of building discipline standards and enforcement.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass. Signed by 6 members: Representatives Quall, Chair; P. Sullivan, Vice Chair; Haigh, Hunter, McDermott and Santos.

Minority Report: Do not pass. Signed by 5 members: Representatives Talcott, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Curtis, Shabro and Tom.

Staff: Sydney Forrester (786-7120).

Background:

The physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted for the purpose of restraining or correcting a child. Any use of force is unlawful unless it is reasonable and moderate and is authorized in advance by a parent or guardian.

Certain actions are presumed unreasonable when used to correct or restrain a child. Actions presumed unreasonable include a list of specific actions, as well as any other act likely to cause, and which does cause, bodily harm greater than transient pain or minor temporary marks. When determining what is reasonable or moderate, the age, size, and condition of the child, and the location of the injury are considered.

State law requires school district boards of directors develop written procedures for administering discipline in each school building. Individual school building administrators are charged with determining that appropriate student discipline is established and enforced within the school. Principals must confer at least annually with certificated employees to develop and/or review building discipline standards and enforcement of those standards.

A variety of school discipline policies exist statewide, ranging from hands-off policies, to those that permit the use of handcuffs and other restraints by persons who are not commissioned law enforcement officers.

Summary of Bill:

Physical restraint in schools is defined as the use of force or restraint used to control a student, including the use of a restraint device. A restraint device includes devices used to assist in controlling a student, such as handcuffs, pepper spray, tasers, and batons.

The use of physical restraint in schools by persons other than commissioned law enforcement officers is limited to the use of reasonable force when: (1) the person's behavior poses a threat of imminent, serious, physical harm to self or others; and (2) nonviolent interventions would not be effective in removing the imminent threat.

The use of physical restraint by persons other than commissioned law enforcement officers is prohibited as a means of discipline for failure to follow directions, for noncompliance with rules, or as a response to the destruction of physical property.

The limitations regarding the use of restraint do not apply to commissioned law enforcement officers, or when the use of restraint is authorized or required by, and is consistent with, a special education student's individualized education plan, or a student's 504 plan.

School building administrators are required to include all school security personnel in their annual review of school discipline standards and enforcement.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Unless there is imminent harm there is no reason for adults to put their hands on students. Students have been handcuffed, thrown against lockers, and placed in pressure holds or restraints for things as simple as not taking off a hat in the building or speaking in a disrespectful tone. This is unacceptable for a few reasons: it's dangerous for children; it's disheartening to students and the community; and it places our state at risk of liability. The Washington Administrative Code for the state's overnight detention centers prohibits the exact conduct talked about in this bill. If our state prohibits these actions in detention facilities and penal institutions why wouldn't we also afford the same safety and prohibit these actions in our public schools where children are supposed to be in a supportive learning environment?

This is not about students who are posing a threat of imminent harm to themselves or others. This is about school districts being able to say it's okay to use force when a child disobeys a command. When does a child always obey instructions? If a child disobeys or questions a direct command, this is no reason to use restraint and force to get them to the principal's office. We are supposed to teach respect, and the only way to do this is to show the child what respect is. If we are concerned about the achievement gap, we need to consider the environment in which we're teaching. We don't beat children into compliance, we need to teach children into compliance.

Kent school district is not the only school district using unnecessary force and restraint on children. This bill will not only eradicate these problems in our schools but will continue to maintain a safe learning environment for students, staff, teachers, and everyone who comes into the school. The Seattle school district has indicated their endorsement for this bill. We are concerned about maintaining a safe environment for children, and maintaining a healthy climate.

When we send our children to school we send them to learn, not to learn how to be criminals. The use of handcuffs on children is appalling. When children go to school, we are entrusting them to the teachers. We don't expect our children to be subjected to unnecessary force. Handcuffs, pepper spray, and tasers abuse our children. It's a way of gaining control that is beneath human dignity. We have to stand on top of this issue to make sure young people are given the opportunity to excel, not to be diminished.

(With concerns)

The Superintendent of Public Instruction does not support the use of force or restraint for discipline, retaliation, for just saying "no," or for having an opinion. Our question is about how this bill works together with HB 1414. We'd like to work with the sponsors to make sure both bills work in concert because the goal of both bills is the same. We'd like to see the two policies blended and moved forward. We support the idea of including the school resource officers in the annual school building reviews.

Testimony Against: None.

Persons Testifying: (In support) Representative Pettigrew, prime sponsor; Alfoster Garrett, Sakara Remmu, Jeolanna Leonard, and Lavitta Lockett, National Association for the Advancement of Colored People; and Reverend Donovan Rivers, Apostolic All Clergy Advisory Council.

(With concerns) Greg Williamson, Office of the Superintendent of Public Instruction; Donna Obermeyer, Washington State Special Education Coalition; and Joe Pope, Association of Washington School Principals Safety.

Persons Signed In To Testify But Not Testifying: Mary Kenfield, State Parent Teacher Association.